



Sen. Terry Link

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1 AMENDMENT TO HOUSE BILL 4377

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4377, AS AMENDED, by  
3 replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Consumer Fraud and Deceptive Business  
6 Practices Act is amended by changing Section 2L as follows:

7 (815 ILCS 505/2L) (from Ch. 121 1/2, par. 262L)

8 Sec. 2L. Used motor vehicles; modification or disclaimer of  
9 implied warranty of merchantability limited.

10 (a) Any retail sale of a used motor vehicle made after the  
11 effective date of this amendatory Act of the 99th General  
12 Assembly January 1, 1968 to a consumer by a licensed vehicle  
13 dealer ~~new motor vehicle dealer or used motor vehicle dealer~~  
14 within the meaning of Chapter 5 of the Illinois Vehicle Code or  
15 by an auction company at an auction that is open to the general  
16 public is made subject to this Section.

1       (b) This Section does not apply to vehicles with more than  
2       185,000 miles at the time of sale.

3       (c) Any sale of a used motor vehicle as described in  
4       subsection (a) may not exclude, modify, or disclaim the implied  
5       warranty of merchantability prescribed in Section 2-314 of the  
6       Uniform Commercial Code or limit the remedies for a breach of  
7       the warranty before midnight of the 15th calendar day after  
8       delivery of a used motor vehicle or until a used motor vehicle  
9       is driven 500 miles after delivery, whichever is earlier. In  
10       calculating time under this Section, a day on which the  
11       warranty is breached and all subsequent days in which the used  
12       motor vehicle fails to conform with the implied warranty of  
13       merchantability are excluded. In calculating distance under  
14       this Section, the miles driven to obtain or in connection with  
15       the repair, servicing, or testing of a used motor vehicle that  
16       fails to conform with the implied warranty of merchantability  
17       are excluded. An attempt to exclude, modify, or disclaim the  
18       implied warranty of merchantability or to limit the remedies  
19       for a breach of the warranty in violation of this Section  
20       renders a purchase agreement voidable at the option of the  
21       purchaser.

22       (d) An implied warranty of merchantability is met if a used  
23       motor vehicle functions free of a defect in a power train  
24       component. As used in this Section, "power train component"  
25       means the engine block, head, all internal engine parts, oil  
26       pan and gaskets, water pump, intake manifold, transmission, and

1 all internal transmission parts, torque converter, drive  
2 shaft, universal joints, rear axle and all rear axle internal  
3 parts, and rear wheel bearings.

4 (e) The implied warranty of merchantability expires at  
5 midnight of the 15th calendar day after delivery of a used  
6 motor vehicle or when a used motor vehicle is driven 500 miles  
7 after delivery, whichever is earlier. In calculating time, a  
8 day on which the implied warranty of merchantability is  
9 breached is excluded and all subsequent days in which the used  
10 motor vehicle fails to conform with the warranty are also  
11 excluded. In calculating distance, the miles driven to or by  
12 the seller to obtain or in connection with the repair,  
13 servicing, or testing of a used motor vehicle that fails to  
14 conform with the implied warranty of merchantability are  
15 excluded. An implied warranty of merchantability does not  
16 extend to damage that occurs after the sale of the used motor  
17 vehicle that results from:

18 (1) off-road use;

19 (2) racing;

20 (3) towing;

21 (4) abuse;

22 (5) misuse;

23 (6) neglect;

24 (7) failure to perform regular maintenance; and

25 (8) failure to maintain adequate oil, coolant, and  
26 other required fluids or lubricants.

1       (f) If the implied warranty of merchantability described in  
2 this Section is breached, the consumer shall give reasonable  
3 notice to the seller no later than 2 business days after the  
4 end of the statutory warranty period. Before the consumer  
5 exercises another remedy pursuant to Article 2 of the Uniform  
6 Commercial Code, the seller shall have a reasonable opportunity  
7 to repair the used motor vehicle. The consumer shall pay  
8 one-half of the cost of the first 2 repairs necessary to bring  
9 the used motor vehicle into compliance with the warranty. The  
10 payments by the consumer are limited to a maximum payment of  
11 \$100 for each repair; however, the consumer shall only be  
12 responsible for a maximum payment of \$100 if the consumer  
13 brings in the vehicle for a second repair for the same defect.  
14 Reasonable notice as defined in this Section shall include, but  
15 not be limited to:

16           (1) text, provided the seller has provided the consumer  
17 with a cell phone number;

18           (2) phone call or message to the seller's business  
19 phone number provided on the seller's bill of sale for the  
20 purchase of the motor vehicle;

21           (3) in writing to the seller's address provided on the  
22 seller's bill of sale for the purchase of the motor  
23 vehicle;

24           (4) in person at the seller's address provided on the  
25 seller's bill of sale for the purchase of the motor  
26 vehicle.

1       (g) The maximum liability of a seller for repairs pursuant  
2 to this Section is limited to the purchase price paid for the  
3 used motor vehicle, to be refunded to the consumer or lender,  
4 as applicable, in exchange for return of the vehicle.

5       (h) An agreement for the sale of a used motor vehicle  
6 subject to this Section is voidable at the option of the  
7 consumer, unless it contains on its face the following  
8 conspicuous statement printed in boldface 10-point or larger  
9 type set off from the body of the agreement:

10       "Illinois law requires that this vehicle will be free of a  
11 defect in a power train component for 15 days or 500 miles  
12 after delivery, whichever is earlier, except with regard to  
13 particular defects disclosed on the first page of this  
14 agreement. "Power train component" means the engine block,  
15 head, all internal engine parts, oil pan and gaskets, water  
16 pump, intake manifold, transmission, and all internal  
17 transmission parts, torque converter, drive shaft, universal  
18 joints, rear axle and all rear axle internal parts, and rear  
19 wheel bearings. You (the consumer) will have to pay up to \$100  
20 for each of the first 2 repairs if the warranty is violated."

21       (i) The inclusion in the agreement of the statement  
22 prescribed in subsection (h) of this Section does not create an  
23 express warranty.

24       (j) A consumer of a used motor vehicle may waive the  
25 implied warranty of merchantability only for a particular  
26 defect in the vehicle including, but not limited to, a rebuilt

1 or flood-branded title and only if all of the following  
2 conditions are satisfied:

3 (1) the seller subject to this Section fully and  
4 accurately discloses to the consumer that because of  
5 circumstances unusual to the business, the used motor  
6 vehicle has a particular defect;

7 (2) the consumer agrees to buy the used motor vehicle  
8 after disclosure of the defect; and

9 (3) before the sale, the consumer indicates agreement  
10 to the waiver by signing and dating the following  
11 conspicuous statement that is printed on the first page of  
12 the sales agreement or on a separate document in boldface  
13 10-point or larger type and that is written in the language  
14 in which the presentation was made:

15 "Attention consumer: sign here only if the seller has  
16 told you that this vehicle has the following problem or  
17 problems and you agree to buy the vehicle on those terms:

- 18 1. ....
- 19 2. ....
- 20 3. .... "

21 (k) It shall be an affirmative defense to any claim under  
22 this Section that:

23 (1) an alleged nonconformity does not substantially  
24 impair the use and market value of the motor vehicle;

25 (2) a nonconformity is the result of abuse, neglect, or  
26 unauthorized modifications or alterations of the motor

1 vehicle;

2 (3) a claim by a consumer was not filed in good faith;

3 or

4 (4) any other affirmative defense allowed by law.

5 (1) Other than the 15-day, 500-mile implied warranty of  
6 merchantability identified herein, a seller subject to this  
7 Section is not required to provide any further express or  
8 implied warranties to a purchasing consumer unless:

9 (1) the seller is required by federal or State law to  
10 provide a further express or implied warranty; or

11 (2) the seller fails to fully inform and disclose to  
12 the consumer that the vehicle is being sold without any  
13 further express or implied warranties, other than the 15  
14 day, 500 mile implied warranty of merchantability  
15 identified in this Section.

16 (m) This Section does not apply to the sale of antique  
17 vehicles, as defined in the Illinois Vehicle Code, or to  
18 collector motor vehicles.

19 ~~(a) The dealer is liable to the purchasing consumer for the~~  
20 ~~following share of the cost of the repair of Power Train~~  
21 ~~components for a period of 30 days from date of delivery,~~  
22 ~~unless the repairs have become necessary by abuse, negligence,~~  
23 ~~or collision. The burden of establishing that a claim for~~  
24 ~~repairs is not within this Section shall be on the selling~~  
25 ~~dealer. The dealer's share of such repair costs is:~~

26 ~~(1) in the case of a motor vehicle which is not more than 2~~

1 ~~years old, 50%;~~

2 ~~(2) in the case of a motor vehicle which is 2 or more, but~~  
3 ~~less than 3 years old, 25%;~~

4 ~~(3) in the case of a motor vehicle which is 3 or more, but~~  
5 ~~less than 4 years old, 10%; and~~

6 ~~(4) in the case of a motor vehicle which is 4 or more years~~  
7 ~~old, none.~~

8 ~~(b) Notwithstanding the foregoing, such a dealer and a~~  
9 ~~purchasing consumer may negotiate a sale and purchase that is~~  
10 ~~not subject to this Section if there is stamped on any purchase~~  
11 ~~order, contract, agreement, or other instrument to be signed by~~  
12 ~~the consumer as a part of that transaction, in at least~~  
13 ~~10-point bold type immediately above the signature line, the~~  
14 ~~following:~~

15 ~~"THIS VEHICLE IS SOLD AS IS WITH NO WARRANTY~~

16 ~~AS TO MECHANICAL CONDITION"~~

17 ~~(c) As used in this Section, "Power Train components" means~~  
18 ~~the engine block, head, all internal engine parts, oil pan and~~  
19 ~~gaskets, water pump, intake manifold, transmission, and all~~  
20 ~~internal transmission parts, torque converter, drive shaft,~~  
21 ~~universal joints, rear axle and all rear axle internal parts,~~  
22 ~~and rear wheel bearings.~~

23 ~~(d) The repair liability means that the dealer will make~~  
24 ~~necessary Power Train component repairs in his shop, or in the~~  
25 ~~shop of his service affiliate, on the basis of his regular list~~  
26 ~~price charge for parts and labor, where the flat rate list~~

1 ~~price does not exceed 50% of the selling price of the vehicle~~  
2 ~~at the time repairs are requested.~~

3 ~~(e) The age of the vehicle shall be measured according to~~  
4 ~~the manufacturer's model year designation as shown on the~~  
5 ~~Certificate of Title or Registration Certificate. Vehicles~~  
6 ~~shall be designated as current year models, one year old, 2~~  
7 ~~year old, and so forth according to the time that has elapsed~~  
8 ~~since January 1 of the appropriate model year so designated.~~

9 ~~(f) This Section does not preclude the issuance of a~~  
10 ~~warranty or guarantee by a motor vehicle dealer or motor car~~  
11 ~~manufacturer that meets or exceeds the basic provisions of~~  
12 ~~paragraph (a).~~

13 ~~(g) After the effective date of this amendatory Act of~~  
14 ~~1989, executives' and officials' cars when so advertised shall~~  
15 ~~have been used exclusively by executives of the parent motor~~  
16 ~~car manufacturer's personnel or by an executive of an~~  
17 ~~authorized dealer in the same make of car. These cars, so~~  
18 ~~advertised, shall not have been sold to a member of the public~~  
19 ~~prior to the appearance of the advertisement.~~

20 Any person who violates this Section commits an unlawful  
21 practice within the meaning of this Act.

22 (Source: P.A. 86-351; 87-1140.)

23 Section 99. Effective date. This Act takes effect July 1,  
24 2017."